IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9605 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SARDAR PATEL CO-OP.COM. SOC.LTD. - Petitioner
Versus
TORRENT POWER AEC LTD. & 1 - Respondents

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Appearance :
MR PRAKASH D PATEL for Petitioner.
NOTICE SERVED BY DS for Respondent: 1.
MR RM CHHAYA for Respondent No.2

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 25/07/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

Rule. Mr.R.M.Chhaya, learned counsel, waives service of notice on behalf of the respondent No.2. The record shows that though the respondent No.1 is duly served with the notice for final disposal of the petition, it has not appeared through its lawyer nor through its constituted agent, nor has filed affidavit-in-reply controverting the averments made in the petition.

2. By filing this petition under Article 226 of the Constitution, Mr.Amarsingbhai Patel, who is Chairman of Sardar Patel Cooperative Commercial Society Ltd., has prayed to issue an appropriate writ or order directing the respondent No.1 i.e. Torrent A.E.C.Ltd., to grant electricity connections to the shops constructed by the petitioner. The petitioner has further prayed to direct the respondent No.2 i.e. Ahmedabad Municipal Corporation to grant Building Use Permission to enable the petitioner and/or allottees to use the shops constructed by the petitioner.

3. Survey No.208 of Final Plot No.115 of T.P.Scheme No.1, Nikol Rakhial, admeasuring 10876.56 sq.mts. was

purchased by Rasikbhai V.Patel for and on behalf of Sardar Patel Co.op.Commercial Society Ltd., by a deed dated June 16, 2005 from Mr.M.A.Kuvadi, Official Liquidator of Nanikaram Sobhraj Mills Ltd.(in liquidation). The deed was signed by Ramjibhai K.Patel as confirming party. The averments made in the additional affidavit read with contents of Commencement Letter (Rajachitthi) issued by Ahmedabad Municipal Corporation on March 15, 2005, indicate that the original owner had obtained permission to develop the land. The case of the petitioner is that on the strength of development permission, the petitioner has constructed shops on the land purchased by the Cooperative Society. After construction of the shops, the petitioner should have obtained Building Use Permission and thereafter should have applied for electricity connection. However, without obtaining Building Use Permission, the petitioner applied to the respondent No.1 for supply of electricity to the shops constructed by it. The communication dated April 17, 2006 addressed by the General Manger, Customer Services, of respondent No.1, indicates that the electricity connection is

not made available to the shops on the ground that the petitioner could not produce Building Use Permisson. By the said communication, the petitioner has been called upon to produce either Building Use Permission or conditional order of High Court to enable the respondent No.1 to supply electricity to the shops constructed by the petitioner. Under the circumstances, the petitioner has filed the instant petition and claimed relief to which reference is made earlier.

4. The petition was placed for admission hearing before the Court on May 2, 2006, and after hearing the learned counsel for the petitioner, notice for final disposal of the petition was issued to the respondents, making the same returnable on May 15, 2006. As observed earlier, though the respondent No.1 is duly served, it has not contested the petition.

5. This Court has heard Mr.Prakash D.Patel, learned counsel for the petitioner, and Mr.R.M.Chhaya, learned counsel for the respondent No.2. Having heard the learned counsels for the parties and considered

the documents forming part of the petition, this Court is of the opinion that interest of justice would be served, if following directions are issued :

(1) The petitioner will approach the Ahmedabad Municipal Corporation for obtaining Building Use Permission within thirty days from today with a proper application/form/format and by paying requisite fee, if any.

(2) The Ahmedabad Municipal Corporation is directed to take decision on the application, which may be submitted by the petitioner, within four months from the date of receipt of the same.

(3) The petitioner shall apply to the respondent No.1., i.e. Torrent Power AEC Limited, for providing electricity connection to the shops constructed by it with a proper application/form/format and by paying charges within a week.

(4) The respondent No.1, i.e. Torrent Power AEC Limited, is directed to provide electricity connection to the shops constructed by the

petitioner within one month on usual terms and conditions.

(5) In case the Ahmedabad Municipal Corporation is not approached by the petitioner for obtaining Building Use Permission within the period stipulated in this order, the Ahmedabad Municipal Corporation shall inform the Torrent Power AEC Limited to disconnect the electricity supply made available to the shops constructed by the petitioner and in such an eventuality, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the shops constructed by the petitioner within a period of fifteen days.

(6) In case the Ahmedabad Municipal Corporation does not grant Building Use Permission, it will ask the Torrent Power AEC Limited to disconnect the electricity supply provided to the shops constructed by the petitioner within a period of fifteen days and, thereupon, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the shops

constructed by the petitioner.

(7) The petitioner shall file an Undertaking before the Torrent Power AEC Limited to the effect that in the event the Building Use Permission is not granted by the Ahmedabad Municipal Corporation, the petitioner will have no objection to disconnection of electricity supply provided to the shops constructed by it. This Undertaking shall be filed along with the application/form/format meant for the purpose.

Rule is made absolute subject to above referred to directions. There shall be no order as to costs. Direct Service is permitted.

(J.M.Panchal, J.)

(Smt.Abhilasha Kumari, J.)

(patel)